



Draft 2011-LAxz-5: Telephone and Tower Property Tax Appraisal.

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	Date:	January 4, 2011
Introduced by:		Prepared by:	Martha Walston
Analysis of:	2011-LAxz-5 (Draft)		Committee Counsel

SUMMARY: *The draft proposal, as recommended by the Department of Revenue in discussions with the wireless companies and tower companies, would authorize the Department of Revenue to appraise wireless companies and tower aggregate companies throughout the State. This would relieve these companies of listing their system property in every county in which the property is located. The draft would also relieve the counties of trying to determine the true value of the companies' property.*

The draft would delete obsolete language and make stylistic and clarifying changes.

CURRENT LAW: Each year the North Carolina Department of Revenue must appraise, at its true value the system property used by certain public service companies both inside and outside the State. System property refers to the real and tangible personal property used by a public service company in its public service activities. Generally property is appraised by the county in which it is located. A public service company is defined as a railroad company, a pipeline company, a gas company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company.¹ In determining the true value of public service companies, the Department must consider the following:

- The market value of the company's capital stock and debt.
- The book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation.
- Gross receipts and operating income of the company.
- Any other factor or information that in the judgment of the Department has a bearing on the true value of the company's system property.

If a public service company is operating both inside and outside the State, then the Department of Revenue must apportion, for taxation in North Carolina, a fair and reasonable share of the value of the company using property, business, and mileage factors. The Department must also allocate the valuations of public service company property among the local taxing units. Each local taxing unit then applies its tax rate to the apportioned valuation just as it does for any other type of property.

¹ The Department appraises the rolling stock of a bus line company or motor freight carrier company, and the flight equipment of an airline company each year. Rolling stock refers to motor vehicles, railroad locomotives, and railroad cars.

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A water company, a cable television company, or a radio or television broadcasting company is not included in the definition of a "public service company" and is therefore assessed and appraised by each county in which the property is located.

Last session the General Assembly removed a radio common carrier company as defined in G.S. 62-119(3) from the list of companies excluded from the definition of "public service company". This change to the statutory definition of "public service company" was considered a technical change because G.S. 62-119 had been repealed in 1995. However, the consequence was more substantive because it could be interpreted as authorizing the Department of Revenue to centrally appraise radio common carriers such as wireless companies.

BILL ANALYSIS: This draft is a recommendation of the Department of Revenue and the North Carolina Association of County Commissioners with the understanding that the wireless providers and the tower companies would agree to the Department of Revenue centrally appraising the true value of the following companies for property tax purposes:

- a company engaged in the business of providing telecommunications service. The definition of the term "telecommunications service" is defined in the State's sales tax statutes and is attached to this summary. The Department already appraises the system property of landline telephone companies.
- a company that owns towers used by a telecommunications company to provide telecommunications service and that is not a telecommunications company.

The draft would relieve the wireless providers and tower aggregate companies of listing their property at the county level, which in many cases, would be multiple counties. The draft would also provide a more accurate determination of the true value of the companies' system property. In practice, most counties use only the cost approach, since they do not have the capability to consider other approaches such as the gross receipts and operating income of a company.

The draft would also add "licenses" to the definition of "intangible personal property" and clarify that the companies' intangible personal property other than a leasehold interest in exempted real property is not appraised and assessed for property tax purposes. G.S. 105-273(8) defines "intangible personal property" as patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, licenses, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, and other like property.

EFFECTIVE DATE: This draft is effective for taxes imposed for taxable years beginning on or after July 1, 2012.

105-164.3

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- (48) Telecommunications service. – The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes any transmission, conveyance, or routing in which a computer processing application is used to act on the form, code, or protocol of the content for purposes of the transmission, conveyance, or routing, regardless of whether it is referred to as voice-over Internet protocol or the Federal Communications Commission classifies it as enhanced or value added. The term does not include the following:
- a. An information service.
 - b. The sale, installation, maintenance, or repair of tangible personal property.
 - c. Directory advertising and other advertising.
 - d. Billing and collection services provided to a third party.
 - e. Internet access service.
 - f. Radio and television audio and video programming service, regardless of the medium of delivery, and the transmission, conveyance, or routing of the service by the programming service provider. The term includes cable service and audio and video programming service provided by a mobile telecommunications service provider.
 - g. Ancillary service.
 - h. Digital property that is delivered or accessed electronically, including an audio work, an audiovisual work, or any other item subject to tax under G.S. 105-164.4(a)(6b).

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